



11350 Random Hills Road, Suite 800, Fairfax, Virginia 22030 Phone (703) 934-6101 Fax (703) 352-3678

[fff@fff.org](mailto:fff@fff.org) [www.fff.org](http://www.fff.org)

---

## **A New Federal War on Dissent** **by James Bovard**

On October 15, 2003, the FBI sent Intelligence Bulletin #89 to 17,000 local and state law-enforcement agencies around the country. The bulletin warned of pending marches in Washington and San Francisco against Bush's Iraq policy and stated,

While the FBI possesses no information indicating that violent or terrorist activities are being planned as part of these protests, the possibility exists that elements of the activist community may attempt to engage in violent, destructive, or disruptive acts.

The FBI catalogued some of the new threats to public safety:

Several effective and innovative strategies are commonly used by protesters prior to, during, and after demonstrations.... Protesters often use the internet to recruit, raise funds, and coordinate their activities prior to demonstrations. Activists may also make use of training camps to rehearse tactics and counter-strategies for dealing with the police.

Saying that dissenters are attending a "training camp" is intended to suggest that they are akin to the killers who attended Afghan terrorist training camps. And the fact that protesters use the Internet is as irrelevant as that earlier generations of protesters used the U.S. mail. Since FBI computers are far behind the technology curve, FBI analysts may be unaware that Internet use is pervasive among Americans of all political stripes.

After warning about the danger that "extremist elements" could engage in "vandalism," "trespassing," and "the formation of human chains," the FBI cast suspicion on almost anyone attending a protest:

Even the more peaceful techniques can create a climate of disorder, block access to a site, draw large numbers of police officers to a specific location in order to weaken security at other locations, obstruct traffic, and possibly intimidate people from attending the events being protested.

The FBI promulgated the doctrine of collective guilt for all demonstrators — as if anyone on the streets in the same city as a masked anarchist troublemaker is as guilty as the person who throws the brick through a Starbucks window.

The confidential FBI intelligence bulletin revealed to the nation's law officers that protesters might use "media equipment (video cameras, photographic equipment, audio tape recorders, microphones, and computer and radio equipment) ... for documenting potential cases of police brutality and for distribution of information over the internet." Apparently, the FBI sees videotaping an arrest as an illicit infringement on a police officer's creativity.

The FBI also portrayed practically any defensive measures by demonstrators as highly suspicious: "Extremists may be prepared to defend themselves against law enforcement officials during the course of a demonstration." The FBI offered a list of tell-tale signs of subversion:

Masks (gas masks, goggles, scarves, scuba masks, filter masks, and sunglasses) can serve to minimize the effects of tear gas and pepper spray as well as obscure one's identity. Extremists may also employ ... body protection equipment (layered clothing, hard hats and helmets, sporting equipment, life jackets, etc.) to protect themselves during marches.

Implying that wearing "layered clothing" is an unfair or illicit tactic is bizarre — as if anything that blunts the impact of a policeman's baton should be considered aiding and abetting al-Qaeda. The FBI also implied that any self-defense measures should be considered a provocation. And does the FBI really think that wearing sunglasses is a sign that a person is conspiring to avoid the effects of tear gas?

The intelligence bulletin concluded,

Law enforcement agencies should be alert to these *possible indicators* of protest activity and report any *potentially illegal acts* to the nearest FBI Joint Terrorism Task Force.

If local police take the hint and start pouring in information, the task force could build a "Total Information Awareness"-like database on anti-war groups and activists.

### **A policy of domestic spying?**

The FBI intelligence bulletin was first publicly disclosed by the *New York Times's* Eric Lichtblau on November 23, 2003. The *Times* added that the FBI intelligence bulletin "appears to

offer the first corroboration of a coordinated, nationwide effort to collect intelligence regarding demonstrations.”

Michael Ratner, president of the Center for Constitutional Rights, observed,

Routine spying on dissidents is a sign of a police state, and unless we stop this administration’s cavalier attitude towards fundamental rights we face a serious threat to our democracy.

Herman Schwartz, a constitutional law professor at American University, commented,

If you go around telling people, “We’re going to ferret out information on demonstrations,” that deters people. People don’t want their names and pictures in FBI files.

An FBI official who insisted on anonymity told the *New York Times*,

We’re not concerned with individuals who are exercising their constitutional rights. But it’s obvious that there are individuals capable of violence at these events.

The “capable of violence” standard justifies surveillance of almost anyone except quadriplegics strapped into wheelchairs. The FBI in the late 1960s and early 1970s justified surveillance of Women’s Lib meetings — including keeping detailed records of each attendee’s sexual grievances — on the basis of the fear that libbers might become violent. Given the FBI’s expansive definition of “potential violence” in the past, this net can snare almost any group or individual who falls into official disfavor.

In response to the *Times* article, the FBI sent a letter to the editor, which it publicly released along with the confidential intelligence bulletin. The FBI stated,

The bulletin is not focused on political protesters or others who exercise their first amendment rights to protest the policies of the government, but simply cites the fact that anarchists and others have used violent tactics to disrupt otherwise peaceful demonstrations.... The bulletin does not suggest that state and local law enforcement should collect information on peaceful demonstrators.

But this sanitized interpretation is at odds with the intelligence bulletin’s specific request that local law enforcement watch for “possible indicators of protest activity” and report to the FBI “potentially illegal acts.” And the FBI’s reference to “extremists” who wear “layered clothing” implies that most wintertime protesters north of the Mason-Dixon Line should be on the target list.

## **Subpoena abuse**

There are other warning signs that the FBI is off the leash. In February 2004, the FBI's Joint Terrorism Task Force issued subpoenas for information on an anti-war meeting held at the Des Moines, Iowa, campus of Drake University. The subpoena demanded "all records of Drake University campus security reflecting any observations made of the November 15, 2003, meeting, including any records of persons in charge or control of the meeting, and any records of attendees."

The feds also subpoenaed four anti-war activists, including the leader of the Catholic Peace Ministry, to compel them to testify before a grand jury. After controversy arose over the subpoenas, the feds issued a new subpoena muzzling Drake University officials from making any public comments about the prior subpoenas. The feds also demanded "information about leaders of the National Lawyer Guild's Drake University chapter, the location of NLG's local offices, its membership rolls, and any annual reports issued since 2002." The president of the guild, Michael Ayers, complained, "The law is clear that the use of the grand jury to investigate protected political activities or to intimidate protesters exceeds its authority."

According to several experts, this was the first time in decades that the feds had issued such a subpoena to a university. The feds lost control of the spin on the investigation and, after widespread criticism, canceled the Drake University subpoenas. There is no way to know how many other subpoenas may have been quietly complied with by colleges or other organizations that eschewed a public confrontation with the feds.

The following week, two U.S. Army Intelligence agents descended upon the University of Texas law school in Austin. They entered the office of the *Journal of Women and the Law* and demanded that the editors turn over a roster of the people who attended a recent conference on Islam and women. The editors denied having a list; the behavior of one agent was described as intimidating.

The agents then demanded contact information for the student who organized the conference, Sahar Aziz. University of Texas law professor Douglas Laycock commented,

We certainly hope that the Army doesn't believe that attending a conference on Islamic law or Islam and women is itself ground for investigation.

Though the Posse Comitatus Act of 1878 prohibits the use of the military for domestic law enforcement, the Bush administration is successfully pushing to have the U.S. military become more involved in domestic snooping.

It took more than a decade after the first big anti-war protests in the 1960s before Americans learned how far the FBI had gone to suppress and subvert public opposition to the

Vietnam War. There have been no congressional hearings spurred as a result of FBI Intelligence Bulletin #89 — despite the FBI's stark animosity to free speech therein.

Is the FBI now considering a similar order to field offices as the one it sent in 1968, telling them to gather information illustrating the “scurrilous and depraved nature of many of the characters, activities, habits, and living conditions representative of New Left adherents” — but this time focused on those who oppose Bush's Brave New World?

Since the FBI admits surveilling anti-war groups and urging local police to send in information on protesters, how far might the feds already be going? Is the FBI following the standard that former Attorney General John Ashcroft publicly proclaimed in December 2001 — presuming that those who invoke “phantoms of lost liberty” are giving “ammunition to America's enemies”? Unfortunately, because of the Bush administration's secrecy policy, Americans cannot know how far the feds have already gone to suppress dissent.

*James Bovard is author of [\*\*The Bush Betrayal\*\*](#) as well as [\*\*Lost Rights\*\*](#) (1994) and [\*\*Terrorism and Tyranny: Trampling Freedom, Justice and Peace to Rid the World of Evil\*\*](#) (Palgrave-Macmillan, September 2003) and serves as a policy advisor for The Future of Freedom Foundation.*

**This article was originally published in the August 2005 edition of *Freedom Daily*.**